

\_\_\_\_\_  
)  
Investigation by the Department on its own )  
Motion as to the propriety of the rates and )  
charges set forth in M.D.T.E No. 17, filed with )  
the Department on May 5, 2000 to become ) D.T.E. 98-57, Phase III  
effective June 4 and June 6, 2000 by New )  
England Telephone and Telegraph Company )  
d/b/a Bell Atlantic - Massachusetts )  
\_\_\_\_\_)

#### VERIZON MASSACHUSETTS' MOTION FOR CLARIFICATION

Verizon Massachusetts ("Verizon MA") files this Motion for Clarification of the Department's September 29, 2000, Order ("Phase III Order") in this proceeding as it relates to the Department's 10 calendar-day site survey requirement for collocation requests. Clarification is needed because the Department's dicta in that Order may arguably alter the spirit and intent of the Department's ruling in its September 7, 2000, Order in Phase I of this docket, regarding the application of that requirement.

#### I. STANDARD OF REVIEW

The Department's standards of review for clarification of its decisions are well-established. The Department has stated that "[c]larification of previously issued orders may be granted when an order is silent as to the disposition of a specific issue requiring determination in the order, or when the order contains language that is so ambiguous as to leave doubt as to its meaning." Boston Edison Company, D.P.U. 92-1A-B, at 4 (1993); Whitinsville Water Company, D.P.U. 89-67-A, at 1-2 (1989). Clarification does not involve reexamining the record for the purpose of substantively modifying a decision. Boston Edison Company, D.P.U. 90-335-A, at 3 (1992), citing Fitchburg Gas & Electric Light Company, D.P.U. 18296/18297, at 2 (1976).

The limited grounds for this Motion concern the scope of the Department's requirement in Phase I that Verizon MA provide a site survey report within 10 calendar days of a request. Although the Department was very specific in that Order regarding the modification to that requirement, the recent Phase III Order casts some doubt on its potentially broader application. Therefore, to eliminate any apparent or perceived discrepancy between the two decisions on this matter, Verizon MA respectfully requests that the Department grant this Motion to clarify that its ruling is limited to the applicable interval for issuing site survey reports.

## B. ARGUMENT

In its Phase III Order, the Department implies that the 10 calendar-day requirement for site survey reports, established in the September 7, 2000, Order in Phase I of this docket, would extend to Verizon MA's response to specific collocation application requests from competitive local exchange carriers ("CLECs"). D.T.E. 98-57 (Phase III), Order at 69. That interpretation is inconsistent with the Department's clear directives in Phase I to modify only Verizon MA's interval for issuing site survey reports from 10 business days to 10 calendar days in accordance with FCC guidelines. D.T.E. 98-57 (Phase I), Order at 65-66 (9/7/00); see also CC Docket No. 98-147, FCC 99-48, First Report and Order and Further Notice of Proposed Rulemaking, ¶158 (rel. March 31, 1999) ("Advanced Services Order"); CC Docket No. 98-147, FCC 00-297, Order on Reconsideration and Second Further Notice of Proposed Rulemaking, ¶164 (rel. August 10, 2000) ("Collocation Remand Order").

The relevant portion of the FCC's Collocation Remand Order, to which the Department specifically referred in its Phase I Order, pertains only to the incumbent local exchange carrier's ("ILEC") provision of a site survey report upon CLEC request. Collocation Remand Order at ¶ 64. The FCC has stated that this site survey report must indicate, inter alia, whether the incumbent local exchange carrier ("ILEC") has available collocation space in a particular ILEC premise, the number of collocators and any modifications in the use of space since the last report. Advanced Services Order, at ¶158. That report is distinguishable from an ILEC's acceptance or denial of a specific CLEC collocation application.

Likewise, in its Phase I Order, the Department ordered Verizon MA to revise the tariff provision (D.T.E. Tariff No. 17 - Part E, Section 2.1.2.A) applicable to the site survey report interval requirement. Phase I Order at 66. Verizon MA implemented that tariff change in its October 5, 2000, compliance filing. The Department did not require Verizon MA to make any modification to the Part E, Section 2.1.2.C of the tariff, which pertains to the 10 business-day response time currently in effect for Verizon MA to indicate "whether space is available to accommodate the CLEC's request . . . .". Accordingly, that interval still applies. This does not conflict with any FCC standards, and there is no basis for modifying that interval based on the record evidence in this case.

To adopt a 10 calendar-day collocation response, as the Department implies in its Phase III Order, would leave Verizon MA with only six business days to respond to a request that was submitted on a Thursday or Friday, and only five business days if that period contained a holiday. This would leave insufficient time to process the order, survey the requested collocation site, determine the availability of facilities, develop a price quote, and perform other activities necessary to provide a meaningful response. Tr. 2:356. It is also shorter than the eight business-day interval in effect in New York, and anywhere else in Verizon's operating territory (i.e., the former Bell Atlantic service area). Tr. 2:360-61. Moreover, this modification would conflict with Department precedent, such as the five business-day written notice given CLECs if their applications are deficient. D.T.E. 98-58, Order, at 17 (1999); D.T.E. Tariff No. 17, Part E, Section 2.1.2.B. Therefore, it is clearly not the Department's intention to alter the 10 business-day response time for individual CLEC collocation applications, as indicated in its D.T.E. 98-57 orders, and the Department should clarify that finding accordingly.

## C. CONCLUSION

For the foregoing reasons, Verizon MA's Motion for Clarification should be granted.

Respectfully submitted,

Untitled

VERIZON MASSACHUSETTS

By its attorney,

---

Barbara Anne Sousa

185 Franklin Street, Room 1403

Boston, Massachusetts 02110-1585

(617) 743-7331

Dated: October 19, 2000